

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Martha Kelsey,
Petitioner-Appellant,

v.

Jefferson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-51-0236
Parcel No. 06-24-201-006

On October 14, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Martha Kelsey was self-represented and submitted evidence in support of her petition. The Jefferson County Board of Review designated attorney Brett Ryan of Willson & Pechacek, PLC, Council Bluffs, Iowa, as its representative. It also submitted documentary evidence in support of its decision. The Appeal Board now having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Martha Kelsey, owner of property located at 2108 Silverlakes Circle, Fairfield, Iowa, appeals from the Jefferson County Board of Review decision reassessing her property. The real estate was classified residential for the January 1, 2009, assessment and valued at \$75,200; representing \$65,200 in land value and \$10,000 in dwelling value. Kelsey protested to the Board of Review on the grounds that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b) and that the property is not equitably assessed under Iowa Code section 441.37(1)(a). In response to the protest, the Board of Review notified Kelsey the January 1, 2009, assessment would not change, stating "insufficient evidence to prove assessment is excessive."

Kelsey then appealed to this Board on the same grounds and seeks \$40,068 in relief. Kelsey valued the property at \$35,132.

According to the property record card, the subject property dwelling consists of only the foundation. Therefore, the January 1, 2009, assessment is a partial assessment for the dwelling.

Kelsey submitted 27 parcels in her subdivision that, in her opinion, support a lower assessment of her land value. Kelsey does not dispute the partial assessment of the foundation. Kelsey also submitted five recent sales of lots in her subdivision that range in value from \$23,722 per acre to \$43,409 per acre. Kelsey testified that the average per acre lot is \$39,224 and if you remove the two highest and the two lowest land valued lots, the average is \$38,770 per acre.

Kelsey testified the Board of Review denied her petition based on "insufficient evidence," but it did actually address the matter. In the interrogatories Kelsey filed on the Board of Review, she requested it address the "insufficient evidence" issue but they have not. Kelsey's interrogatories also ask "how" her lot assessment was calculated. The Board of Review responded with the property record card for the lots in her subdivision.

Kelsey testified her property is the only lot in the subdivision that has neighbors on both sides within approximately 110 feet. Because of the narrow pie-shaped lot, the adjoining lot driveway entrance is at the center line of her property.

This Board notes that Kelsey at one time was the owner of her lot (12) and the neighboring lot (13) that utilizes part of her lot (12). Kelsey sold off lot (13) and the dwelling and now is in the process of building a dwelling on the subject property lot (12). Because of the narrow lot she has placed her driveway on the north end of the lot. Therefore, she must enter from a gravel road. Kelsey also testified regarding drainage problems related to her lot.

Bob Ehler, Vanguard Appraisal, testified on behalf of the Board of Review. Ehler testified his company appraised the subject property in 2005. Ehler stated the subject property was assessed based

on market value data. However, he did not submit evidence for support of the data. Ehler also testified on how the base values were established by his company in 2005 for the subject area. When asked by this Board, Ehler stated neither his company nor he personally took part in the assessment process for the 2007 or 2009 assessment. Ehler also testified he has not made an appraisal or reviewed the subject property. Because Ehlers did not participate in setting the assessed value in question and has no personal knowledge of the subject property, we find the testimony of Bob Ehlers is irrelevant.

Further, we believe that if the Board of Review had provided the evidence requested by Kelsey in her Interrogatories, there may not have been a need for this hearing. The Board of Review at hearing indicated that the subject property was valued on a first acre price “unit price” with a 25% vacancy factor for unimproved lots. Kelsey stated at hearing that she did not agree with the high assessment, but at least now she understands how her assessment was determined.

Ultimately, Kelsey has not proven what the correct value should be for the land and foundation as a whole for the subject property. Therefore, we must affirm the assessment.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 4997 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

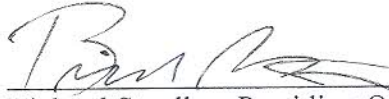
"(1) that there are several other properties within a reasonable area similar and comparable... (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

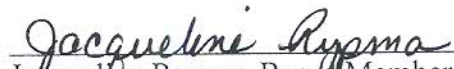
Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Kelsey provided no sufficient evidence using either method to show the subject property was inequitably assessed.


We, therefore, affirm the assessment of the subject property as determined by the Jefferson County Board of Review as of January 1, 2009. The property assessment as of January 1, 2009, is \$75,200; representing \$65,200 in land value and \$10,000 in dwelling value.

THE APPEAL BOARD ORDERS that the assessment of the Kelsey property, located at 2108 Silverlakes Circle, Fairfield, Iowa, as of January 1, 2009, set by the Jefferson County Board of Review, is affirmed.

Dated this 9 day of November 2010.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Chair

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11-9</u> , 2010.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	